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STATE OF CALIFORNIA

**Energy Resources Conservation
and Development Commission**

In the Matter of:

Application for Certification for the Redondo
Beach Energy Project

Docket No. 12-AFC-03

**NOTICE OF OBJECTION AND RESPONSES
TO INTERVENOR CITY OF REDONDO BEACH'S
FIRST SET OF DATA REQUESTS**

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March 17, 2014

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Pursuant to Section 1716(f) of the California Energy Commission's ("Commission") regulations,¹ AES Southland Development, LLC (the "Applicant"), provides this notice of objection to certain data requests propounded by the City of Redondo Beach ("City") on February 24, 2014. The Applicant has no objections to the majority of the City's data requests and is providing responses concurrent with this notice of objection. However, as set forth more fully below, the Applicant objects to the City's Data Requests 3.1, 3.2, 5.2, 6.1, and 6.2.

I. SPECIFIC OBJECTIONS

Section 1716 of the Commission's regulations establishes the basic framework for information exchanges between parties in licensing proceedings:

A party may request from an Applicant ... information which is reasonably available to the Applicant which is relevant to the application proceedings or reasonably necessary to make any decision on the ...application.²

The type of "information" that an applicant is required to provide includes only "the data and other objective information" reasonably available to it.³ "Reasonably available" has been defined by the

¹ As set forth in Title 20 of the California Code of Regulations.

² 20 C.C.R. § 1716(b).

Commission as “information *that they* [parties] *possess.*”⁴ Section 1716 does not “require[] parties to perform new or different analyses at the whim of”⁵ or “on behalf of”⁶ other parties. The Applicant objects to the following data requests as not meeting the requirements of Section 1716.

A. Data Request 3.1

Please identify all sites that were considered by AES for use as monitoring sites for the noise study. For each site, please provide the following: (1) specify the location of the site; (2) specify whether and when AES requested access from the property owner; and (3) describe the response of the land owner.

Objection:

The Applicant objects to this question on the grounds that information regarding other sites considered for noise monitoring is neither relevant nor reasonably necessary for any decision the Commission must make on the Application for Certification (“AFC”) for the Redondo Beach Energy Project (“RBEP”).

The purpose of ambient noise monitoring is to provide information regarding general ambient conditions in the overall region that may be impacted by the project. The Applicant conducted ambient noise monitoring on two sites. This information was provided in Section 5.7.2.2 of the AFC. In response to a data request from Commission Staff, the Applicant has agreed to conduct ambient noise monitoring at two additional sites. The locations of these sites are identified in Data Response 26-1, Attachment DR 26R-1. Thus, the Applicant has or will perform ambient noise monitoring on four sites in close proximity to the project site. The four sites selected by the Applicant will be more than

³ Committee Ruling On Intervenor Center For Biological Diversity’s Petition To Compel Data Responses, Application For Certification For The Carlsbad Energy Center, Docket No, 07-Afc-6, December 26, 2008.

⁴ Application for Certification of the Tesla Power Project by Midway Power LLC, *Order Denying Intervenor’s Petitions for Reconsideration*, p. 3, Docket 01-AFC-21, Certified June 16, 2004, Order No. 04-0811-02 (filed Aug. 11, 2004).

⁵ Application for Certification of the Tesla Power Project by Midway Power LLC, *Order Denying Intervenor’s Petitions for Reconsideration*, p. 3, Docket 01-AFC-21, Certified June 16, 2004, Order No. 04-0811-02 (filed Aug. 11, 2004).

⁶ Committee Ruling On Intervenor Center For Biological Diversity’s Petition To Compel Data Responses, Application For Certification For The Carlsbad Energy Center, Docket No, 07-Afc-6, December 26, 2008.

adequate in fulfilling this purpose. Therefore, whether the Applicant considered additional locations is simply not relevant or reasonably necessary to any decision that the Commission must make.

B. Data Request 3.2

Specifically, did AES request access from a property owner at any of the following locations: (1) any property “across the street” to the north of the facility, located on Herondo Street between Valley Drive and Monterey Drive; or (2) any property located on N. Catalina Avenue, between N. Francisca Avenue and N. Pacific Coast Highway?

Objection:

The Applicant objects to this request on the same grounds as the objections to Data Request 3.1.

C. Data Request 5.2

Please provide all written materials in AES’ possession- including electronic communication- regarding the possibility of its constructing an electric storage facility or capability at the RBEP site.

Objection:

The Applicant objects to Data Request 5.2 as vague, overbroad, and burdensome. The Applicant also objects to this data request as requesting information that is neither relevant nor reasonably necessary to make a decision in this proceeding. When developing the RBEP, the Applicant considered many possible alternative technologies. Section 6 of the AFC describes those technological alternatives, including storage, which were considered and *rejected* by the Applicant. The City has provided absolutely no justification for its sweeping, overbroad and burdensome request for “all written materials in AES’s possession” regarding the mere possibility of constructing an electricity storage facility. The AFC states clearly that this is an Alternative that has been rejected by the Applicant for the RBEP site; therefore, such information is neither relevant nor reasonably necessary to make a decision in this proceeding.

D. Data Request 6.1

Please provide a detailed description of any project alternative or alternative site configuration considered or discussed by AES that is not contained in the AFC or other materials submitted by AES to

the Energy Commission. This includes but is not limited to any facilities or equipment involving batteries or electrical storage.

Objection:

The Applicant objects to Data Request 6.1 on the grounds that the data request is vague, burdensome, and requests information that is neither relevant nor reasonably necessary to make a Commission decision in this proceeding. The matter before the Commission is the project as proposed by the Applicant. The development of any new power plant necessarily involves the discussion and consideration of many alternative configurations. The mere fact that an Applicant may have discussed or considered internally other configurations, however, is simply irrelevant.

E. Data Request 6.2

Please provide all written materials in AES' possession- including electronic communication- regarding any project alternative or alternative site configuration responsive to Data Request 6.1.

Objection:

The Applicant objects to this request on the same grounds as the objections to Data Request 6.1.

Dated: March 17, 2014

Respectfully submitted,

ELLISON, SCHNEIDER & HARRIS L.L.P.

By  _____

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